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Attorney for Plaintiff
JANE DOE #2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

JANE DOE #2

Plaintiff,

v.

STATE OF CALIFORNIA, CALIFORNIA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION (CDCR),
OFFICER GREG RODRIGUEZ, ACTING
WARDEN MICHAEL PALLARES, and
DOES 1 to 20,

Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF
CIVIL AND CONSTITUTIONAL RIGHTS**
DEMAND FOR JURY TRIAL

INTRODUCTION

This action arises from the sexual assault and rape of JANE DOE #2, a former inmate, by OFFICER GREG RODRIGUEZ, a correctional officer employed by the STATE OF CALIFORNIA and CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (“CDCR”), at Central California Women’s Facility (“CCWF”) in Chowchilla, California.

JURISDICTION & VENUE

1
2 1. This Court has original jurisdiction of the federal claims under 28 U.S.C. § 1331
3 (in that they arise under the United States Constitution) and § 1343(a)(3) (in that the action is
4 brought to address deprivations, under color of authority, of rights, privileges, and immunities
5 secured by the United States Constitution). This Court has supplemental jurisdiction of the state
6 law claims under 28 U.S.C. § 1367.

7 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because
8 Defendants are located in the Eastern District of California and because the acts and/or omissions
9 stated herein occurred in the Eastern District of California.

10 3. Intra-district venue is proper in the Fresno Division of the Eastern District of
11 California pursuant to E.D. Cal. L.R. 120(d) because the claims asserted herein arise from acts
12 and/or omissions which occurred in the County of Madera.

EXHAUSTION

13
14 4. JANE DOE #2 submitted a timely Government Claim to the State of California
15 regarding the claims alleged in this action on January 5, 2023. The claim was rejected by
16 operation of law on February 20, 2023, as the State of California never issued a written rejection
17 of JANE DOE #2's claim.

PARTIES

18
19 5. Plaintiff JANE DOE #2 is a resident of the County of Sacramento, California.
20 Plaintiff JANE DOE brings this action in her individual capacity on behalf of herself.

21 6. Defendant STATE OF CALIFORNIA, is, and at all times material herein
22 employed all individual Defendants in this action, and all individual Defendants acted within the
23 course and scope of their employment. Defendant STATE OF CALIFORNIA is properly named
24 as a Defendant for Plaintiff's claims under Civil Code Section 52.1 (the Bane Act).

25 7. Defendant CALIFORNIA DEPARTMENT OF CORRECTIONS AND
26 REHABILITATION ("CDCR") is and was an agency of the State of California. Defendant
27 CDCR is properly named as a Defendant for Plaintiff's claims under Civil Code Section 52.1 (the
28 Bane Act).

8. Defendant ACTING WARDEN MICHAEL PALLARES (“PALLARES”) was, at all times material herein, the Acting Warden of CCWF, located in Chowchilla, California. PALLARES was acting within the course and scope of his employment and under color of state law at all relevant times. PALLARES is sued in his individual capacity.

9. OFFICER GREG RODRIGUEZ (“RODRIGUEZ”) is, and at all times material herein was, a Correctional Officer employed by the State of California at CCWF and acting within the course and scope of his employment and under color of state law. RODRIGUEZ is sued in his individual capacity.

10. Defendant DOES 1 to 20 are and/or were agents or employees of the State of California, California Department of Corrections and Rehabilitation, acting within the course and scope of their employment and under color of state law. Defendant DOES 1 to 20 true and correct names and identities are not currently known. Defendant DOES 1 to 20 are sued by their fictitious names and true and correct names and identities will be submitted when ascertained.

GENERAL ALLEGATIONS

11. At all times relevant herein, all wrongful and unlawful acts described herein were performed under color of state law and/or in concert with or on behalf of those acting under the color of state law.

12. In 2006, the California Department of Corrections and Rehabilitation (“CDCR”), adopted a Prison Rape Elimination Act Policy (“PREA”), which declares that CDCR has “zero tolerance for sexual violence, staff sexual misconduct and sexual harassment in its institutions,” and that all “sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited.” See Department of Corrections and Rehabilitation Operations Manual, Article 44, Section 54040.1 “Policy”.

13. CDCR’s PREA definitions provide that the “legal concept of ‘consent’ does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff member to disciplinary action and/or to prosecution under the law.” See Section 54040.3, “Definitions”.

14. All correctional officers at CCWF are required to report “immediately and

1 confidentially to the appropriate supervisor any information that indicates an offender is being, or
2 has been the victim of sexual violence, staff sexual misconduct, or sexual harassment.” See
3 Section 54040.7.

4 15. State law also requires employees to report correctional staff misconduct.
5 California Code of Regulations, Title 15, Section 3401.5(c) requires any employee who observes
6 or receives “any incident, information or facts which would lead a reasonable person to believe
7 sexual misconduct has occurred” to “immediately report the information or incident.” Failure to
8 do so can subject an employee to disciplinary action. Id.

9 16. In 2005, the California legislature also enacted the Sexual Abuse in Detention Act
10 (“SADEA”) (See Penal Code Sections 2635-2643). California Penal Code Section 2636,
11 subsection (b), requires that CDCR “ensure that staff members intervene when an inmate or ward
12 appears to be the target of sexual harassment or intimidation.”

13 **ALLEGATIONS AGAINST RODRIGUEZ**

14 17. On or about May 15, 2022, JANE DOE #2, who was approximately thirty (30)
15 years old, arrived at CCWF to complete a prison sentence after pleading no contest to a felony
16 charge in San Joaquin County, California.

17 18. JANE DOE #2 served her sentence and was released on or about December 1,
18 2022.

19 19. While serving her custody sentence at CCWF, JANE DOE #2 met Correctional
20 Officer RODRIGUEZ while passing through A Yard work exchange.

21 20. RODRIGUEZ immediately began making sexually inappropriate comments.
22 RODRIGUEZ asked JANE DOE #2 to remove her CDCR issued N95 mask so that he could see
23 her face and told JANE DOE #2, “You have such pretty eyes.” RODRIGUEZ also told JANE
24 DOE #2 that he “really like[s] white girls with green eyes” and told her that she was “very
25 pretty.”

26 21. During this initial encounter, RODRIGUEZ asked JANE DOE #2 if she wanted to
27 work at A Yard work exchange and at Board of Parole Hearings (“BPH”).

28 22. RODRIGUEZ informed JANE DOE #2 that working for him at these locations

1 would allow JANE DOE #2 to have additional phone calls while incarcerated. JANE DOE #2
2 replied “yes,” and informed RODRIGUEZ that she would like to work while incarcerated and
3 have additional phone calls to contact family and friends.

4 23. After this initial encounter, JANE DOE #2 returned to her cell and did not see
5 RODRIGUEZ again for several days.

6 24. After a few days had passed, RODRIGUEZ called Housing Staff and directed
7 Housing Staff that JANE DOE #2 be sent to BPH. JANE DOE #2 heard her name called over the
8 loud-speaker, exited her cell, and was informed by Housing Staff that she was being summoned
9 to BPH. JANE DOE #2 did as directed by Housing Staff and went to BPH.

10 25. The BPH offices are in a secure building that requires correctional officer approval
11 and the unlocking of secured doors/gates by correctional officers prior to entry.

12 26. The BPH offices are comprised of several small offices and one large hearing
13 office (“Hearing Office”), where the Board of Parole Hearings conducts parole suitability
14 hearings. A hallway is used to access the various offices and Hearing Office.

15 27. The small offices and hallway at BPH all have constant video surveillance, and a
16 live video feed of these locations is continuously monitored by correctional officers that are
17 stationed adjacent to BPH.

18 28. The BPH Hearing Office is not monitored by video cameras.

19 29. Upon arriving at BPH, RODRIGUEZ introduced JANE DOE #2 to two female
20 staff members who worked at Inmate Assignments. Inmate Assignments has offices located in
21 BPH and these two female staff members worked at BPH.

22 30. One of the female staff members asked RODRIGUEZ “why are you at BPH?”
23 RODRIGUEZ was not assigned to work at BPH and had requested overtime shifts at that location
24 that were approved by his supervisors, including PALLARES.

25 31. There was also a Lieutenant present that was working in a nearby office. After
26 meeting the female staff members, and greeting the Lieutenant sitting in his office, RODRIGUEZ
27 escorted JANE DOE #2 into the BPH Hearing Office.

28 32. The Hearing Office is the location where life inmates have their parole suitability

1 hearings. It is also the room where RODRIGUEZ has been sexually harassing, sexually assaulting
2 and raping female inmates since at least 2014.

3 33. RODRIGUEZ asked JANE DOE #2 to wait while he used the restroom located
4 inside the Hearing Office. RODRIGUEZ exited the restroom, approached JANE DOE #2 and
5 started showing her where he wanted her to clean.

6 34. RODRIGUEZ then grabbed JANE DOE #2 and began trying to kiss her and put
7 his hands down her prison issued pants. RODRIGUEZ forcefully pushed his hand inside her
8 prison issued underwear and began touching and grabbing her vagina. RODRIGUEZ also
9 grabbed her breasts and buttocks.

10 35. JANE DOE #2 repeatedly said “no!” and asked him to “please stop.”
11 RODRIGUEZ would not stop and continued to sexually assault JANE DOE #2. RODRIGUEZ
12 told JANE DOE #2 that he “can’t help myself.”

13 36. RODRIGUEZ informed JANE DOE #2 that he had been there for a long time and
14 that “nobody would believe” her if she told anyone. RODRIGUEZ also stated that he “know[s]
15 people in here” and implied that JANE DOE #2 would suffer physical harm if she did not comply
16 with his unlawful demands. JANE DOE #2 believed that she would suffer physical harm at the
17 hands of inmates and/or correctional staff if she did not comply.

18 37. RODRIGUEZ also informed JANE DOE #2 that she must remain quiet about his
19 misconduct, and that if she told anyone, he would retaliate.

20 38. RODRIGUEZ then unzipped the zipper to his one-piece prison uniform and said,
21 “get on your knees and suck my dick.” JANE DOE #2 said “no, I do not want to do that.”
22 RODRIGUEZ responded, “remember what I said,” and told her that “you do not want to do that.”
23 RODRIGUEZ’s threats of physical harm inflicted by others were repeated several times.

24 39. RODRIGUEZ grabbed JANE DOE #2 by the head and began forcing her to
25 perform oral sex on him.

26 40. RODRIGUEZ then stood JANE DOE #2 up, turned her around and bent her over.
27 RODRIGUEZ pulled down JANE DOE #2’s prison issued pants and underwear and started
28 rubbing and pushing his penis against her vagina.

1 41. RODRIGUEZ had sexual intercourse with JANE DOE #2 without her consent and
2 against her repeated objections.

3 42. While raping and sexually assaulting JANE DOE #2, RODRIGUEZ continually
4 looked through the blinds in the Hearing Office to see if anyone was present.

5 43. RODRIGUEZ grabbed JANE DOE #2's hand and ejaculated into it. RODRIGUEZ
6 then told JANE DOE #2 to go to the restroom located in the Hearing Office and wash her hands.

7 44. JANE DOE #2 did not consent to being touched, groped, molested, fondled,
8 having oral sex or intercourse with RODRIGUEZ. RODRIGUEZ forced JANE DOE #2 to
9 engage in sexual acts against her will and without her consent.

10 45. JANE DOE #2 was afraid of RODRIGUEZ and believed that RODRIGUEZ
11 would have her assaulted by other inmates or staff if she reported his criminal misconduct, so she
12 remained silent about RODRIGUEZ's misconduct while incarcerated at CCWF.

13 46. After being raped by RODRIGUEZ, JANE DOE #2 returned to her cell, then
14 immediately went to the shower. JANE DOE #2 cried uncontrollably in the shower.

15 47. JANE DOE #2 was severely traumatized after being raped and sexually assaulted
16 by RODRIGUEZ. JANE DOE #2 will need counseling for life to address the psychological
17 trauma inflicted by RODRIGUEZ, and the repeated failure of those individuals employed by the
18 STATE OF CALIFORNIA and CDCR, including PALLARES, who failed to protect her from a
19 serial rapist employed by the State of California.

20 **ALLEGATIONS AGAINST PALLARES, CDCR AND THE STATE OF CALIFORNIA**

21 48. RODRIGUEZ used the BPH Hearing Office to sexually assault and/or rape
22 multiple women at CCWF.

23 49. After two victims of RODRIGUEZ came forward and filed lawsuits in December
24 of 2022, (*Doe v. Rodriguez, et al.*, 1:22-cv-01569-JLY-SAB, and *Roe v. Rodriguez et al.*, 1:22-cv-
25 01574-JLY-SAB), CDCR and PALLARES belatedly attempted to get in front of the allegations
26 and for the first time publicly acknowledged that RODRIGUEZ was sexually assaulting female
27 inmates at CCWF.

28 50. On December 28, 2022, CDCR and PALLARES issued a press release stating that

1 CDCR's Office of Investigative Affairs opened an investigation in July of 2022 "after discovering
2 information that suggested sexual misconduct was occurring between Rodriguez and incarcerated
3 women at CCWF."

4 51. CDCR and PALLARES stated in their Press Release that CDCR "has identified
5 more than 22 potential victims" of RODRIGUEZ and that CDCR has referred their investigation
6 of RODRIGUEZ to the Madera County District Attorney. RODRIGUEZ has since been
7 criminally charged with over 90 felony counts and his bail is currently set at \$7,800,000. JANE
8 DOE #2 is one of the charged victims of RODRIGUEZ's sexual misconduct at CCWF.

9 52. Even though PALLARES, CDCR and the STATE OF CALIFORNIA "discovered
10 information" in July of 2022 that "suggested sexual misconduct was occurring between
11 Rodriguez and incarcerated women at CCWF," CDCR, PALLARES and the STATE of
12 CALIFORNIA did not terminate RODRIGUEZ from working at CCWF or remove him from
13 assignments working at BPH in an unmonitored area, and he continued to rape and sexually
14 assault female inmates at BPH through August of 2022. See, *Doe v. Rodriguez*, et al., 1:22-cv-
15 01569-JLY-SAB; and, *People v. Rodriguez*, (MCR077701), counts 65-76.

16 53. PALLARES served as Acting Warden of CCWF throughout JANE DOE #2's
17 period of incarceration and was responsible as the "Hiring Authority" for initiating Internal
18 Affairs Investigations, and for the disciplining and dismissal of staff. See Cal. Code of Regs. Title
19 15, § 3392(a)(11).

20 54. CDCR's PREA policy required that PALLARES be "immediately notified" of
21 staff sexual misconduct via the Watch Commander. Department of Corrections and Rehabilitation
22 Operations Manual, Article 44, Section 54040.8.1 "Custody Supervisor Responsibilities".

23 55. The Prison Rape Elimination Act policy and CDCR both state that there is a zero-
24 tolerance policy towards staff sexual misconduct in California prisons. However, during his time
25 as Acting Warden and "Hiring Authority" PALLARES repeatedly ignored PREA complaints
26 alleging staff sexual misconduct by correctional officers, including RODRIGUEZ, and took no
27 action to protect female inmates at CCWF.

28 56. Correctional Staff had complained about sexual misconduct by RODRIGUEZ

1 prior to JANE DOE #2 being raped and sexually assaulted by RODRIGUEZ.

2 57. In 2014, a correctional officer witnessed RODRIGUEZ preying upon a female
3 inmate while RODRIGUEZ was assigned to C Yard at CCWF.

4 58. RODRIGUEZ followed the same plan he has used for the last ten years to
5 victimize female inmates, and this involved calling housing staff and directing that they send him
6 the female inmate that he intended to rape and/or sexual assault.

7 59. In 2014, RODRIGUEZ called housing staff and directed the officer to send a
8 female inmate to him at C Yard work exchange even though he was not assigned to C Yard work
9 exchange.

10 60. The correctional officer witnessed RODRIGUEZ suspiciously lurking near C Yard
11 work exchange for approximately ten minutes waiting for the female inmate to arrive.

12 61. The correctional officer called RODRIGUEZ and confronted him as to why he
13 would summon the female inmate to C Yard work exchange since he did not work at C Yard
14 work exchange. RODRIGUEZ stated that he just wanted to talk with the inmate.

15 62. After witnessing RODRIGUEZ engaging in conduct prohibited by CCWF's PREA
16 policy, and in order to comply with the PREA policy provisions and SADEA regarding the
17 reporting of suspected misconduct, the correctional officer prepared and submitted a written
18 letter/complaint alleging staff sexual misconduct by RODRIGUEZ.

19 63. The correctional officer submitted the PREA letter/complaint to their supervisor
20 alerting CCWF and the STATE OF CALIFORNIA to the fact that RODRIGUEZ was engaged in
21 suspected staff sexual misconduct with the female inmate.

22 64. It was also documented in the C Yard logbook that RODRIGUEZ was engaged in
23 suspected sexual misconduct with the female inmate.

24 65. The complaint was investigated by a Lieutenant at CCWF. The Lieutenant
25 informed the complaining correctional officer that he had also received an anonymous letter from
26 a second correctional officer alleging that RODRIGUEZ was engaged in staff sexual misconduct
27 with the female inmate.

28 66. CCWF internal affairs interviewed RODRIGUEZ and RODRIGUEZ's friend and

1 co-worker, Correctional Officer Santos, about the allegations of staff sexual misconduct and both
2 officers denied any misconduct. Plaintiff is informed and believes that Officer Santos has since
3 left CCWF after being accused of PREA misconduct.

4 67. CDCR and the STATE OF CALIFORNIA failed to take any action against
5 RODRIGUEZ even though correctional officers were submitting written complaints regarding
6 staff sexual misconduct committed by RODRIGUEZ in 2014.

7 68. The female inmate identified by correctional officers as being subjected to staff
8 sexual misconduct by RODRIGUEZ in 2014 was raped and sexually assaulted by RODRIGUEZ.

9 69. The female inmate is now identified as Jane Doe #6 in the criminal complaint filed
10 against RODRIGUEZ in Madera County Superior Court Case No. MCR077701.

11 70. If CDCR and the STATE OF CALIFORNIA had properly investigated the prior
12 complaints by staff against RODRIGUEZ in 2014, Jane Doe #6 could have been protected, and
13 the twelve charged counts of rape and forcible oral copulation that occurred in 2014 may have
14 been prevented.

15 71. According to the felony criminal complaint, RODRIGUEZ committed these acts
16 of staff sexual misconduct in 2014 against Jane Doe #6 in the following locations: “behind work
17 exchange;” “in the substance abuse program building;” “in the main yard clinic;” and in the “C
18 facility clinic.” These sexual assaults and rapes in multiple locations occurred in a secure state
19 prison with correctional staff turning a blind eye to the repeated misconduct of RODRIGUEZ.

20 72. PALLARES was employed as a correctional officer and worked with
21 RODRIGUEZ in 2014 at CCWF. PALLARES was friends with RODRIGUEZ and frequently
22 referred to him by his nickname of “G Rod.”

23 73. PALLARES was aware of the 2014 staff complaints of sexual misconduct against
24 RODRIGUEZ. PALLARES was also aware and had knowledge of staff sexual misconduct
25 complaints submitted against RODRIGUEZ after 2014 as he was required to review those
26 complaints as Chief Deputy Warden and Acting Warden after receiving promotions to those
27 positions and assuming the role of Hiring Authority.
28

1 74. Inmates had also submitted written complaints about RODRIGUEZ's sexually
2 harassing and assaultive behavior prior to JANE DOE #2 being raped by RODRIGUEZ, and
3 these complaints were forwarded by the Watch Commander to PALLARES as he was solely
4 responsible for initiating Internal Affairs investigations once he became Acting Warden of CCWF
5 in 2019. PALLARES routinely ignored these complaints and failed to initiate Internal Affairs
6 investigations.
7

8 75. One inmate filed multiple grievances alleging that female inmates were being
9 forced to engage in sexual acts with correctional officers. This inmate had credible information
10 that RODRIGUEZ was forcing inmates to engage in sexual acts. These grievances were
11 submitted prior to JANE DOE #2 being raped and sexually assaulted by RODRIGUEZ.
12

13 76. These grievances alleging that female inmates were being forced to engage in
14 sexual acts were forwarded and brought to the attention of PALLARES by the Watch
15 Commander. PALLARES ignored these allegations and declined to initiate and conduct Internal
16 Affairs investigations to discover which staff were responsible and which inmates were being
17 victimized by staff.

18 77. PALLARES had received additional complaints from other inmates alleging
19 PREA violations by RODRIGUEZ prior to JANE DOE #2 being raped and sexually assaulted by
20 RODRIGUEZ.
21

22 78. The lead investigator at CCWF's Office of Internal Investigations has confirmed
23 that PREA complaints had been received regarding RODRIGUEZ prior to JANE DOE #2 being
24 raped and sexually assaulted by RODRIGUEZ.

25 79. These prior PREA complaints regarding RODRIGUEZ were all forwarded to
26 PALLARES by the Watch Commander, as required. PALLARES took no action on these
27 complaints, did not initiate Internal Affairs investigations, and allowed RODRIGUEZ to continue
28

1 to work at CCWF and have access to unmonitored locations within CCWF such as the BPH
2 Hearing Office. PALLARES took no action on these PREA complaints even though there was a
3 history of staff sexual misconduct committed by RODRIGUEZ that he was aware of dating back
4 to 2014, with some of these complaints coming from staff employed by CDCR.

5 80. RODRIGUEZ frequently requested overtime at BPH to commit these rapes and
6 sexual assaults, even though he was not assigned to work at BPH.

7 81. RODRIGUEZ's requests for overtime at BPH were granted by PALLARES, even
8 though prior complaints of sexual harassment and sexual assault against RODRIGUEZ had been
9 alleged by female inmates in the BPH Hearing Office at CCWF and PALLARES knew and was
10 aware of these complaints.

11 82. Female inmates at CCWF had complained to that RODRIGUEZ was engaging in
12 sexual harassment, sexual assault and rape at the BPH Hearing Office, prior to JANE DOE #2
13 being raped by RODRIGUEZ.

14 83. PALLARES knew and was aware that female inmates had complained of sexual
15 harassment, sexual assault and rape by RODRIGUEZ at the BPH Hearing Office and failed to
16 investigate the claims against RODRIGUEZ, remove RODRIGUEZ from the BPH assignment or
17 install a video system in the Hearing Office to monitor that location.

18 84. Even though PALLARES and other supervisory staff were aware of these
19 allegations, PALLARES failed to review, or have an Internal Affairs investigator review the
20 hours of video recordings that showed female inmates entering the Hearing Office with
21 RODRIGUEZ, which corroborated the female inmates' complaints.

22 85. PALLARES failed to initiate an Internal Affairs investigation into RODRIGUEZ's
23 sexual misconduct until July of 2022, which prevented Internal Affairs from interviewing over 20
24 victims of RODRIGUEZ's sexual misconduct and prevented Internal Affairs from reviewing the
25
26
27
28

1 hours of video footage which corroborated the female inmates claims.

2 86. CDCR, PALLARES and unknown supervisors failed to conduct any inquiry into
3 why RODRIGUEZ was frequently alone with female inmates in this unmonitored location, even
4 though they had complaints from female inmates that CDCR's PREA policies were being
5 violated by RODRIGUEZ at the BPH Hearing Office.
6

7 87. PALLARES took no action on these complaints by female inmates and allowed
8 RODRIGUEZ to continue his unmonitored use of the Hearing Office and allowed RODRIGUEZ
9 the continued ability to use the BPH Hearing Office to accrue overtime pay.

10 88. PALLARES intentional refusal to investigate and stop sexual misconduct by
11 RODRIGUEZ at CDCR is not surprising given that PALLARES had recently been named as a
12 defendant in two civil lawsuits alleging sexual harassment, sexual battery and assault against
13 PALLARES while he was employed as Chief Deputy Warden and Acting Warden at CCWF.
14 According to CDCR, PALLARES is currently under investigation for sexual misconduct and has
15 been re-assigned to serve as a Warden at a different state prison.
16

17 89. In *Escobedo v. Pallares*, et al., (Case No. MCV084010), filed in Madera County
18 Superior Court in August of 2020, Plaintiff Escobedo alleged that PALLARES engaged in sexual
19 harassment and that PALLARES "was making unwanted sexual advances towards Plaintiff again
20 and again even though she told him to stop."
21

22 90. Plaintiff Escobedo also alleged that PALLARES was "engaging in affairs with
23 subordinate female employees" of CDCR at CCWF.

24 91. Plaintiff Escobedo had worked at CDCR for over twenty years and had been
25 promoted to the rank of Warden at CDCR in 2017. PALLARES replaced Escobedo as Acting
26 Warden in 2019.

27 92. CDCR and the State of California knew of these allegations against PALLARES
28

1 as they had been served with the *Escobedo* lawsuit prior to JANE DOE #2 being raped by
2 RODRIGUEZ but failed to conduct any inquiry or investigation into PALLARES and allowed
3 him to remain as Acting Warden even though they were aware of sexual misconduct allegations
4 against PALLARES.

5
6 93. In *Galvani v. Pallares*, et al., (Case No. MCV086026) filed in Madera County
7 Superior Court in September of 2021, Plaintiff, a subordinate female employee of PALLARES at
8 CCWF, alleged that PALLARES committed sexual harassment, sexual battery and assault at
9 CCWF.

10 94. Specifically, Plaintiff alleged that she was forced to perform nonconsensual sexual
11 acts with PALLARES at CCWF and because PALLARES had access to internal videorecording
12 and monitoring, he could “hunt Plaintiff down and force her to have sex with him in places the
13 recording would not reach.” PALLARES, like RODRIGUEZ, was allegedly engaging in sexual
14 misconduct at CCWF, which was prohibited by CCWF’s PREA policy.

15
16 95. The *Galvani* lawsuit was filed prior to JANE DOE #2 being raped by
17 RODRIGUEZ, and CDCR and the STATE OF CALIFORNIA knew of these allegations but
18 failed to remove PALLARES from his position as Acting Warden to protect female subordinate
19 employees and inmates.

20
21 96. PALLARES’s actions and sexual misconduct at CCWF was common knowledge
22 amongst correctional staff, including RODRIGUEZ, as correctional staff knew and were aware of
23 the lawsuits against PALLARES alleging sexual misconduct by the prior Warden and a
24 subordinate employee.

25 97. PALLARES’s misconduct promoted a culture of sexual misconduct at CCWF
26 which emboldened RODRIGUEZ as he believed that nothing would happen to him since no
27 action was taken against PALLARES by CDCR or the STATE OF CALIFORNIA. CDCR did
28

1 not initiate an investigation into PALLARES until 2023.

2 98. If PALLARES had initiated Internal Affairs investigations into the prior PREA
3 complaints, Internal Affairs would have been able to review and obtain the videos of “more than
4 22 women” being summoned to different locations by RODRIGUEZ and RODRIGUEZ could
5 have been removed from his position of employment at CCWF.
6

7 99. If RODRIGUEZ had been investigated and disciplined in 2014, JANE DOE #2,
8 and approximately twenty other women, would not have been raped and/or sexually assaulted by
9 RODRIGUEZ.

10 100. JANE DOE #2 has suffered severe and extreme mental and emotional distress as a
11 result of RODRIGUEZ’s actions and the failure of PALLARES, supervisors, other correctional
12 officers and the STATE OF CALIFORNIA to protect her from a serial rapist employed by
13 CDCR.
14

15 101. JANE DOE will continue to suffer mental and emotional distress, anguish,
16 embarrassment, and humiliation for the rest of her life.

17 **VI. CLAIMS FOR RELIEF**

18 **FIRST CLAIM FOR RELIEF**

19 **“Cruel and Unusual Punishment/Excessive Force”**

20 **(42 U.S.C. § 1983)**

21 *Against Defendant RODRIGUEZ*

22 102. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1
23 through 101, as though fully set forth herein.

24 103. Defendant RODRIGUEZ deprived JANE DOE #2 of her rights under the Eighth
25 Amendment to the U.S. Constitution, when he sexually harassed, sexually assaulted and raped
26 JANE DOE #2 while she was serving a prison sentence at CCWF.

27 104. RODRIGUEZ used and abused his position of authority as a correctional officer
28

1 employed at CCWF to control JANE DOE #2's movements within CCWF and at all times acted
2 under color of law and without any penological justification.

3 105. RODRIGUEZ touched JANE DOE #2 in a sexual manner and engaged in sexual
4 conduct for his own sexual gratification. RODRIGUEZ performed these acts for the purpose of
5 humiliating, degrading and demeaning JANE DOE #2.

6 106. As a direct and proximate result of said acts by RODRIGUEZ, JANE DOE #2
7 suffered injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover
8 damages for past and future medical and psychological care, past and future pain and suffering,
9 past and future mental and emotional distress, costs and attorneys' fees.

10 107. Defendant RODRIGUEZ's acts constituted oppression, fraud and/or malice
11 thereby entitling Plaintiff to an award of exemplary and punitive damages against Defendant
12 RODRIGUEZ according to proof.

13 **SECOND CLAIM FOR RELIEF**

14 **"Right to Bodily Integrity"**

15 **(42 U.S.C. § 1983)**

16 *Against Defendant RODRIGUEZ*

17 108. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1
18 through 107, as though fully set forth herein.

19 109. Defendant RODRIGUEZ deprived JANE DOE #2 of her rights under the
20 Fourteenth Amendment to the U.S. Constitution, when he sexually harassed, sexually assaulted
21 and raped JANE DOE #2 while serving a prison sentence at CCWF.

22 110. RODRIGUEZ used and abused his position of authority as a correctional officer
23 employed at CCWF to control JANE DOE #2's movements within CCWF and at all times acted
24 under color of law and without any penological justification.

25 111. RODRIGUEZ touched JANE DOE #2 in a sexual manner and engaged in sexual
26 conduct for his own sexual gratification. RODRIGUEZ performed these acts for the purpose of
27 humiliating, degrading and demeaning JANE DOE #2.

28 112. As a direct and proximate result of said acts by Defendant RODRIGUEZ, JANE

DOE #2 suffered injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover damages for past and future medical and psychological care, past and future pain and suffering, past and future mental and emotional distress, costs and attorneys' fees.

113. Defendant RODRIGUEZ's acts constituted oppression, fraud and/or malice thereby entitling Plaintiff to an award of exemplary and punitive damages against Defendant RODRIGUEZ according to proof.

THIRD CLAIM FOR RELIEF

"Failure to Protect"

(42 U.S.C. § 1983)

Against ACTING WARDEN MICHAEL PALLARES, DOES 1 to 20

114. Plaintiff JANE DOE re-alleges and incorporates by reference paragraphs 1 through 113, as though fully set forth herein.

115. The aforementioned acts and/or omissions of ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 in failing to properly investigate prior claims of sexual harassment, sexual assault and rapes committed against female inmates by RODRIGUEZ were done with clear disregard for JANE DOE #2's rights under the Eighth Amendment.

116. ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 made intentional decisions with respect to RODRIGUEZ that allowed him to use and have unmonitored access to the BPH Hearing Office, even allowing RODRIGUEZ to use this location to obtain overtime pay and benefits.

117. These decisions and conditions put JANE DOE #2 at substantial risk of suffering serious harm and she in fact suffered serious harm.

118. Defendant ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 did not take reasonable available measures to abate the risk, even though a reasonable officer in the circumstances would have appreciated the high degree of risk involved in light of the obvious consequences.

119. By not taking such measures, Defendant ACTING WARDEN MICHAEL PALLARES caused JANE DOE #2's injuries.

120. As a direct and proximate result of said acts and/or omissions by Defendants ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20, JANE DOE #2 suffered injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover damages for past and future medical care, past and future pain and suffering, past and future mental and emotional distress, costs and attorneys' fees.

121. The aforementioned acts and/or omissions of said Defendants were willful, wanton, malicious and done with conscious or reckless disregard for the rights and safety of JANE DOE, thereby entitling plaintiff to an award of exemplary and punitive damages according to proof.

FOURTH CLAIM FOR RELIEF

"Supervisory Liability"

(42 U.S.C. § 1983)

AGAINST ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20

122. Plaintiff JANE DOE re-alleges and incorporates by reference paragraphs 1 through 121, as though fully set forth herein.

123. Supervisory Defendants ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 were acting under color of state law during all times relevant to this action.

124. By incarcerating, taking custody and assuming control over JANE DOE #2, ACTING WARDEN MICHAEL PALLARES and the supervisory DOE defendants created a special relationship that required Defendants to assume affirmative duties of care and protection.

125. ACTING WARDEN MICHAEL PALLARES and the supervisory DOE defendants, DOES 1 to 20, recklessly and with conscious disregard to known and obvious risks to JANE DOE #2's safety, failed to protect JANE DOE #2 and other female inmates from pervasive sexual assaults and rapes by RODRIGUEZ in the following ways:

a. by continuing to employ RODRIGUEZ and other prison personnel in positions that allowed unsupervised and unmonitored access to female inmates even though ACTING WARDEN MICHAEL PALLARES and other supervisory defendants had knowledge that RODRIGUEZ and other correctional officers were committing sexual harassment, sexual

1 assault and rape of female inmates in unmonitored locations;

2 b. by failing to take any precautionary measures to address the known and
3 ongoing problem of sexual abuse and misconduct by correctional officers at CCWF;

4 c. by failing to initiate Internal Affairs investigations into PREA allegations
5 against RODRIGUEZ;

6 d. by failing to install and maintain a video surveillance system in each and
7 every location where female inmates are present and that correctional officers have access to;

8 e. by failing to review and have their subordinates review live video feeds of
9 locations through CCWF that have video surveillance to monitor whether RODRIGUEZ or other
10 correctional officers are taking female inmates into unmonitored locations;

11 f. by failing to properly train, supervise, investigate and discipline
12 RODRIGUEZ even though ACTING WARDEN MICHAEL PALLARES and other supervisors
13 knew that female inmates had made complaints against RODRIGUEZ that indicated he was
14 violating CDCR's PREA policies while employed at CCWF;

15 g. by failing to investigate and terminate RODRIGUEZ prior to JANE DOE
16 #2 being raped and sexually assaulted, even though female inmates had submitted PREA
17 complaints against RODRIGUEZ alleging sexual misconduct committed by RODRIGUEZ at
18 CCWF prior to JANE DOE #2's rape and sexual assault;

19 h. by allowing RODRIGUEZ to be assigned to and work overtime at BPH
20 even though female inmates had complained of sexual misconduct and sexual assaults at BPH,
21 and ACTING WARDEN MICHAEL PALLARES and other supervisory defendants knew that
22 BPH allowed RODRIGUEZ to have unmonitored access to female inmates at CCWF; and,

23 i. by approving RODRIGUEZ's requests for overtime at the BPH office,
24 even though PALLARES had received prior PREA complaints from female inmates that
25 RODRIGUEZ was using the unmonitored BPH to sexually assault and rape female inmates.

26 126. This conduct amounts to deliberate indifference to the rights of JANE DOE #2
27 and other female inmates and shocks the conscience.

28 127. ACTING WARDEN MICHAEL PALLARES and the supervisory defendants

1 knew that RODRIGUEZ and other correctional officers were engaging in these acts and knew the
2 conduct would deprive JANE DOE #2 and others of their rights.

3 128. As a direct and proximate result of said acts and/or omissions by Defendants
4 ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20, JANE DOE #2 suffered
5 injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover damages
6 for past and future medical care, past and future pain and suffering, past and future mental and
7 emotional distress, costs and attorneys' fees.

8 129. The aforementioned acts and/or omissions of said Defendants were willful,
9 wanton, malicious and done with conscious or reckless disregard for the rights and safety of
10 JANE DOE, thereby entitling plaintiff to an award of exemplary and punitive damages according
11 to proof.

12 **FIFTH CLAIM FOR RELIEF**

13 **“California Gender Violence Law”**

14 **(Cal. Civ. Code § 52.4)**

15 *Against RODRIGUEZ and DOES 1 to 20*

16 130. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1
17 through 129, as though fully set forth herein.

18 131. The actions of RODRIGUEZ, in sexually harassing, sexually assaulting, and
19 raping JANE DOE #2 constitute “gender violence” and sex discrimination under Civil Code §
20 52.4, as those acts constitute criminal offenses under state law and involved physical invasions of
21 a sexual nature under coercive conditions. RODRIGUEZ has been charged for his criminal
22 conduct relating to JANE DOE #2.

23 132. RODRIGUEZ touched JANE DOE #2 in a sexual manner on multiple occasions
24 and engaged in sexual conduct for his own sexual gratification. RODRIGUEZ performed these
25 acts for the purpose of humiliating, degrading and demeaning JANE DOE #2.

26 133. ACTING WARDEN MICHAEL PALLARES and other supervisory defendants
27 knew and had been made aware through prior complaints that female inmates were being sexually
28 assaulted by RODRIGUEZ, but failed to remove him from the BPH position, failed to monitor

1 his actions at the BPH location and failed to install video cameras at the BPH Hearing Office to
2 monitor that location.

3 134. As a direct and proximate result of said acts by Defendant RODRIGUEZ,
4 ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20, JANE DOE #2 suffered
5 injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover damages
6 for past and future medical and psychological care, past and future pain and suffering, past and
7 future mental and emotional distress, costs and attorneys' fees.

8 135. Defendant RODRIGUEZ's acts constituted oppression, fraud and/or malice
9 thereby entitling Plaintiff to an award of exemplary and punitive damages against Defendant
10 RODRIGUEZ according to proof.

11 **SIXTH CLAIM FOR RELIEF**

12 **"Tom Bane Civil Rights Act"**

13 **(California Civil Code § 52.1)**

14 *Against RODRIGUEZ, PALLARES, STATE OF CALIFORNIA, CDCR and DOES 1 to 20*

15 136. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1
16 through 135, as though fully set forth herein.

17 137. Defendant RODRIGUEZ sexually harassed, sexually assaulted and raped JANE
18 DOE #2, through the use of coercion, intimidation and threats, with deliberate indifference or
19 reckless disregard of rights protected by the Eighth and Fourteenth Amendments to the U.S.
20 Constitution as well as California Constitution, Article I, § 17 and California Civil Code § 52.4.

21 138. Defendant DOES 1 to 20 failed to intercede in Defendant RODRIGUEZ's sexual
22 harassment, sexual assaults and rape of Plaintiff JANE DOE #2, with deliberate indifference or
23 reckless disregard of rights protected by the Eighth and Fourteenth Amendments to the U.S.
24 Constitution as well as California Constitution Article I, § 17 and California Civil Code § 52.4.

25 139. Defendants STATE OF CALIFORNIA and CDCR failed to train its custodial
26 officers in the recognition and prevention of staff sexual misconduct as required by Department
27 of Corrections and Rehabilitation Operations Manual, Article 44, Section 54040.7 "Detection,
28 Notification and Reporting," California Code of Regulations, Title 15, Section 3401.5(c), and the

1 Sexual Abuse in Detention Act (“SADEA”) (See Penal Code Sections 2635-2643).

2 140. Defendants STATE OF CALIFORNIA and CDCR have policies, customs and
3 practices that permit employees with prior complaints of staff sexual misconduct to summon
4 female inmates to areas within CCWF that have no video monitoring, even though there was a
5 known and obvious risk of female inmates having their constitutional and statutory rights
6 violated.

7 141. Policymakers of Defendants STATE OF CALIFORNIA and CDCR have failed
8 and refused to provide video monitoring in locations where male employees have access to
9 female inmates, even though there was a known and obvious risk of female inmates having their
10 constitutional and statutory rights violated.

11 142. PALLARES, as “Hiring Authority” failed to implement CCFW’s PREA
12 regulations and failed to initiate Internal Affairs investigations even though multiple staff and
13 inmates had complained that RODRIGUEZ was engaging in staff sexual misconduct as defined
14 under PREA and those complaints had been forwarded to PALLARES.

15 143. Plaintiff JANE DOE #2 was harmed by Defendants’ actions and omissions and
16 their conduct was a substantial factor in causing JANE DOE #2’s harm

17 144. RODRIGUEZ’s actions constituted oppression, fraud and/or malice thereby
18 entitling Plaintiff to an award of exemplary and punitive damages according to proof.

19 145. Defendants STATE OF CALIFORNIA and CDCR are vicariously liable, through
20 the principles of *respondeat superior* and pursuant to Cal. Gov. Code §§ 815.2(a) and 820(a), for
21 injuries proximately caused by the acts and omissions of their employees acting within the scope
22 of their employment.

23 146. Plaintiff JANE DOE #2 was injured as a direct and proximate result of
24 Defendants’ actions and inactions, entitling her to receive compensatory, treble damages and civil
25 penalties.

26 147. Plaintiff JANE DOE #2 is also entitled to an award of reasonable attorneys’ fees
27 and costs pursuant to Civil Code Section 52.1 and as allowed by law.

28 **SEVENTH CLAIM FOR RELIEF**

“Sexual Assault and Battery”

(California Common Law/Civ. Code § 1708.5)

Against RODRIGUEZ and DOES 1 to 20

148. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1 through 147, as though fully set forth herein.

149. RODRIGUEZ acted with the intent to cause a harmful or offensive contact by sexually assaulting, battering and raping JANE DOE #2 while she was under his care, custody and control as an inmate at CCWF.

150. RODRIGUEZ caused an imminent fear of sexual assault and battery by summoning JANE DOE #2 to the BPH Hearing Office, informing her there were no cameras present and telling her that he was going to have sex with her or he would retaliate, and sexually offensive contact with JANE DOE #2 resulted.

151. CDCR’s PREA definitions clarify that the “legal concept of ‘consent’ does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff member to disciplinary action and/or to prosecution under the law.” See Section 54040.3, “Definitions”.

152. JANE DOE #2 did not consent to being touched by RODRIGUEZ and did not consent to being sexually assaulted and raped while in custody by RODRIGUEZ.

153. JANE DOE #2 was harmed by RODRIGUEZ’s conduct.

154. As a direct and proximate result of said acts by Defendant RODRIGUEZ, JANE DOE #2 suffered injuries and damages as alleged herein and to which JANE DOE #2 is entitled to recover damages for past and future medical and psychological care, past and future pain and suffering, and past and future mental and emotional distress.

155. Defendant RODRIGUEZ’s acts constituted oppression, fraud and/or malice thereby entitling Plaintiff to an award of exemplary and punitive damages against Defendant RODRIGUEZ according to proof.

EIGHTH CLAIM FOR RELIEF

“Intentional Infliction of Emotional Distress”

(California State Common Law)

Against RODRIGUEZ, PALLARES, and DOES 1 to 20

156. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1 through 155, as though fully set forth herein.

157. Defendant RODRIGUEZ engaged in extreme and outrageous conduct by repeatedly subjecting JANE DOE #2 to non-consensual sexual acts, which caused JANE DOE #2 to suffer severe mental and emotional distress.

158. Defendant DOES 1 to 20 engaged in extreme and outrageous conduct, including by failing to protect JANE DOE #2, integrally participating in, and/or aiding and abetting Defendant RODRIGUEZ's sexual harassment, sexual assaults and rape of Plaintiff JANE DOE #2.

159. Defendants RODRIGUEZ, ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 actions and inactions constituted oppression, fraud and/or malice resulting in great harm and thereby entitling JANE DOE #2 to an award of punitive damages against all individually named Defendants.

160. Plaintiff JANE DOE #2 was injured as a direct and proximate result of Defendants RODRIGUEZ, ACTING WARDEN MICHAEL PALLARES and DOES 1 to 20 actions and inactions, entitling her to receive compensatory damages for past and future medical and psychological care, past and future pain and suffering, and past and future mental and emotional distress.

NINTH CLAIM FOR RELIEF

"Negligence"

(California State Common Law)

Against RODRIGUEZ, PALLARES, and DOES 1 to 20

161. Plaintiff JANE DOE #2 re-alleges and incorporates by reference paragraphs 1 through 160, as though fully set forth herein.

162. Defendants RODRIGUEZ, ACTING WARDEN MICHAEL PALLARES, and DOES 1 to 20 owed a duty to protect Plaintiff JANE DOE and breached that duty by allowing

1 RODRIGUEZ to sexually assault and rape her while incarcerated at CCWF.

2 163. Defendants ACTING WARDEN MICHAEL PALLARES and Defendant DOES 1
3 to 20 failed to ensure Plaintiff was free from sexual violence caused by their subordinates,
4 including:

5 a. by failing to observe and reported multiple instances of suspicious conduct
6 by RODRIGUEZ towards female inmates at A Yard work exchange and the BPH offices;

7 b. by allowing and assigning RODRIGUEZ to work the BPH assignment at
8 CCWF, after having received multiple complaints from female inmates complaining of sexual
9 misconduct by RODRIGUEZ at BPH, and knowing that the BPH Hearing Office had no video
10 surveillance;

11 c. by the repeated failures of DOES 1 to 20 to report RODRIGUEZ for sexual
12 abuse of inmates when each had seen RODRIGUEZ taking female inmates into the BPH Hearing
13 Office for extended periods of time with no lawful or legitimate reason, and for not questioning
14 why RODRIGUEZ was summoning female inmates to the BPH office with no legitimate or
15 penological justification;

16 d. by granting RODRIGUEZ overtime shifts at BPH knowing female inmates
17 had complained of sexual assault at that location and knowing there was no video monitoring in
18 the BPH Hearing Office; and,

19 e. by not supervising RODRIGUEZ or other subordinate correctional officers
20 to ensure they are complying with CDCR's PREA policies regarding the detection and reporting
21 of staff sexual misconduct.

22 164. Plaintiff JANE DOE #2 was injured as a direct and proximate result of
23 Defendants' actions to which JANE DOE #2 is entitled to recover damages for past and future
24 medical and psychological care, past and future pain and suffering, and past and future mental
25 and emotional distress.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff JANE DOE #2 seeks judgment as follows:

28 1. For an award of nominal, compensatory, general and special damages against

Defendants according to proof at trial;

2. For an award of exemplary/punitive damages against Defendants RODRIGUEZ, PALLARES, and DOES 1 to 20, in an amount sufficient to deter and to make an example of them, because their actions and/or inactions were motivated by evil motive or intent, involved reckless or callous indifference to constitutional or statutory rights, and constituted oppression, fraud or malice resulting in great harm;

3. For an award of actual damages, treble damages, civil penalties and any other available relief against Defendants RODRIGUEZ, PALLARES and DOES 1 to 20;

4. For an award of reasonable attorneys' fees and costs, pursuant to 42 U.S.C. § 1988, Cal. Civ. Code § 52.1, Cal. Civ. Code § 52.4, Cal Code of Civ. Proc. § 1021.5, and any other statute that may be applicable; and,

5. For an award of any other relief, as the Court deems fair, just and equitable.

Dated: June 6, 2023

Respectfully Submitted,

By: /s/ Robert Chalfant
Robert Chalfant
Law Office of Robert Chalfant

Attorney for Plaintiff
JANE DOE #2

JURY TRIAL DEMAND

A JURY TRIAL IS DEMANDED on behalf of Plaintiff JANE DOE.

Dated: June 6, 2023

Respectfully Submitted,

By: /s/ Robert Chalfant
Robert Chalfant
Law Office of Robert Chalfant

Attorney for Plaintiff
JANE DOE #2